

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ASHLEY MATHEWS, et al.,)	CASE NO: 1:15-cv-01122
Plaintiffs,)	JUDGE BOYKO
v.)	SEPARATE ANSWER OF
OFFICER MICHAEL L. GARN, et al.,)	DEFENDANT, CITY OF
Defendants.)	MANSFIELD
)	TRIAL BY JURY DEMANDED
)	

Now comes the defendant, City of Mansfield, and for its answer to the plaintiffs' complaint herewith aver:

FIRST DEFENSE

1. The plaintiffs have failed to state a claim upon which relief can be granted against this answering defendant.

SECOND DEFENSE

2. Defendant, City of Mansfield, admits the allegations contained in paragraph 6 of the complaint.

3. Defendant, City of Mansfield, admits that Michael L. Garn was employed as a police officer with the City of Mansfield but further answering, denies the remaining allegations contained in paragraph 5 of the complaint.

4. Defendant, City of Mansfield, states that it is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraphs 3 and 4 of the plaintiffs' complaint and strict proof thereof is demanded at the time of trial.

5. Defendant, City of Mansfield, denies the allegations contained in paragraphs 1, 2, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, and 58 of the complaint, and specifically denies every allegation in the complaint not admitted to be true.

THIRD DEFENSE

6. The alleged conduct in the complaint against co-defendant Garn, if true, in whole or in part, was unauthorized, and contrary to all training, policy, procedure, and practice of the City of Mansfield, thus barring the claims in the complaint against the City of Mansfield..

FOURTH DEFENSE

7. At all times material, co-defendant Garn was not a policymaker, thus barring all claims in the complaint against this answering defendant.

FIFTH DEFENSE

8. The allegations in the complaint are barred under principles of waiver, consent, and estoppel.

SIXTH DEFENSE

9. Plaintiffs failed to minimize or mitigate their claimed damages, thus barring or reducing the claims in the complaint.

SEVENTH DEFENSE

10. The damages of which the plaintiffs complain were caused, in whole or in part, by the conduct of the plaintiffs.

EIGHTH DEFENSE

11. The plaintiffs have failed to initiate their claims within the applicable statute of limitations.

NINTH DEFENSE

12. To the extent applicable to the City of Mansfield, the allegations in the plaintiffs' complaint under the state law are barred under principles of state immunity, pursuant to O.R.C. § 2744.01 *et seq.*, and the allegations are barred in that the City has no obligation to indemnify conduct alleged in the complaint against defendant Garn.

TENTH DEFENSE

13. Defendant, City of Mansfield, is entitled to a deduction and set off against any damages sustained by the plaintiffs in this case, as provided under Ohio law, pursuant to O.R.C. § 2744.01 *et seq.*, and other applicable sections of the Revised Code, for any benefits received by plaintiffs from any policy or policies of insurance or other sources.

WHEREFORE, having fully answered, defendant, City of Mansfield, demands that the plaintiffs' complaint be dismissed with costs assessed against the plaintiffs.

s/Gregory A. Beck

Gregory A. Beck (0018260)
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JURY DEMAND

A trial by jury is demanded herein on all issues presented to the court.

s/Gregory A. Beck

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BAKER, DUBLIKAR, BECK,
WILEY & MATHEWS

PROOF OF SERVICE

I hereby certify that on the 5TH day of June, 2015, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/Gregory A. Beck

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